

SB5 COLLECTIVE BARGAINING REFORM (Jones S) To make changes to Ohio's Collective Bargaining Law, which was first enacted in 1983.

Reps. Blessing and Coley returned for committee testimony, having replaced regularly assigned Reps. McGregor and Richard Adams for Tuesday's sponsor testimony by Sen. Jones.

David Petroni, chairman of nonprofit advocacy group Educate Springboro (the bill sponsor's hometown), appeared as a proponent, though he said the bill could be "strengthened." He said his organization is "networked" with many similar advocacy groups in suburban and regional districts across the state.

"Reforming education requires reforming collective bargaining because it takes the lion share of funding (often 80 percent of a school district discretionary budget) away from our children's classroom and shifts it to adults in the form of salary and benefits."

He said most districts in the state are out of money. "We believe education's deficit spending model is broken and a failed system."

In Springboro's last five ballot levies, which all failed, Petroni said district administrators tried to sell tax increases with the threat of lost education materials and resources for students, rather than rollbacks in salaries and benefits.

He said his group supports a "Children First Budget." "This model requires a school district and community to establish its priorities. It funds core curriculum first, non-core education and support services second, extras like athletic, band and other student-centric extracurricular activities third, and employee concerns (raises and benefits) last."

Petroni pointed to Springboro's May 2010 five-year forecast, which showed district expenses were increasing 7 percent each year "while inflation was nil"; enrollment growth was only 2 percent; total salary increases in the low- to mid-5 percent range through FY14; in addition to increased budgeted amounts for district health contributions.

"These raises and benefits were planned and funded while median household income in Springboro declined, foreclosures increased, and unemployment was at its peak," he said, noting later that he, too, had to "reinvent" himself professionally in 2008.

Petroni suggested all parties involved, except taxpayers -- school board members, school administration, and teachers' unions -- don't "get it." Specifically, he said the amended 15 percent employee contribution for medical coverage in the current version of the bill could still allow for "Rolls Royce" health plans with zero deductibles and low out-of-pocket limits "at citizen expense." He also attacked the many provisions for teacher leave beyond normal vacation and sick time, saying students suffer when teachers are absent.

During questioning, Rep. Hagan voiced a perspective offered by many Democrats when the bill was moving through the Senate. "Obviously, you've pointed out that teachers' unions are better negotiators than your school boards."

Rep. Szollosi seconded the thought. "Who's to blame for that? Who agreed to those terms? Have you called for the removal of school district officials who agreed to these terms?"

Petroni said the answer to that question is somewhat complicated by the fact that the district has a new superintendent and is on its third treasurer since the five-year forecast was made.

Rep. Murray agreed with his Democratic colleagues. "Part of your message is, 'Save us from ourselves.'" He asked whether Springboro had in fact adopted the "Children First Budget"; Petroni said no.

Rep. Ramos was more sanguine about the proposal. "I am intrigued by your idea of a "Children First Budget," and I would be interested to see this body address this in the context of this bill or other legislation." He challenged, however, Petroni's logic around what actually constitutes students' being put first. "How is

spending money on teachers not spending money on children?"

Coley weighed in from the Republican side to address the issue not only of management flexibility but management responsibility. "The thing I love about SB5 ... is that the elected official will have the responsibility for negotiating contracts Where is the indignation?" he said of school trustees' reaction to employee concessions.

"I appreciate this because you don't get to have this discussion at school boards," Petroni said. "They're more like business meetings."

Chairman Uecker interjected to clarify the public nature of school board meetings. "Many school boards do have public comment, many don't. There is no mandate that they must."

Members next heard from proponent teacher Carol Katter, a self-described Catholic who objects to being forced to pay dues, even though she has elected to opt out of the teachers' union.

"Each and every day of my 25-year public school teaching career in the state of Ohio, I've lived with the stigma of being a union dissenter," she said. "I've been harassed and bullied to join. I was threatened that I was going to be 'watched closely.' I've been chided for ruining the 100 percent school union membership."

Katter said she was originally told there are only two religious exemptions from union due designations but eventually received legal assistance from the National Right to Work Foundation. She now redirects her union dues to a charity of her choice.

"How strong do you believe his violation of your religious conviction is in Ohio? You don't believe yours is an isolated incident?" Katter said no.

Szollosi pointed out that she still benefited from the union's negotiating power in her own salary and benefits.

"You can't be forced to join the union but you can be required to pay your fair share of the freight," he said.

"I don't want to be involved at all," she responded, saying she would rather pay negotiating costs rather than support the union as such. "If I don't like what I'm being paid, I will go elsewhere."

Murray asked whether she believed "belonging to a union is a sin?" She said yes, due to contributions supporting abortion rights and certain political candidates. Murray read from a statement by the U.S. Conference of Catholic Bishops generally supporting the role of labor unions.

"Not all of us follow the dictates of the American council of bishops," Uecker said, interrupting. "Some of us more closely follow the Vatican." Katter agreed.

Superintendent John Scheu of Hardin-Houston Local Schools, a member of the idled Ohio School Funding Advisory Council, spoke next in support, saying the bill will help districts deal with anticipated state budget cuts of 10-20 percent by adjusting employee compensation and reducing layoffs.

"I do not feel teachers are overpaid," he said, however. "I feel teachers are fairly compensated."

Scheu responded to several questions from Republicans about merit pay. He said the list of people he would retain and those he would dismiss under a reduction in force would be very different with a performance-based system than with the current reliance on teacher seniority.

"How can you, and the members of this panel, make the determination of what merit is?" Hagan said, challenging the entire premise of performance-based teaching. "How do you judge the performance of a teacher just because you are the superintendent?"

Hagan said a workable definition of merit would need to take into account greatly varying socioeconomic conditions in different regions and communities.

Scheu said an emphasis on value-added student performance would be an important part of that definition. "I think one year's growth would be a start for merit pay."

Rep. Antonio worried that merit pay would erode the benefits of "last in, first out" layoffs, to the extent newer,

less well paid teachers could be retained for financial reasons under the guise of merit.

"Most teachers are still women, who are vulnerable to age discrimination," Antonio said.

Scheu responded that students should have the best possible teachers, whether they are veterans and highly paid or newer and less well paid.

Responding to Szollosi, Scheu took the discussion in rather new direction, noting pension pickups and terms of health coverage may benefit administrators more than teachers.

"I stand to lose far more than my teachers," he said, noting the district covers 100 percent of the cost of his medical insurance. He argued, as primary organizations representing school boards and administrators would later testify, that pension negotiations should be left to local control.

Proponent testimony was taken next from Kelly Kohls, a school board member for Springboro Community School District. Kohls reiterated her testimony from the Senate Insurance, Commerce and Labor Committee. (See *The Hannah Report*, 2/17/11.)

Szollosi picked up on the issue of administrator perks versus teacher compensation and benefits. "What effort have CEOs made in your district in the area of sacrifices?"

Kohls said she opposes the pension pickups many superintendents benefit from, but noted her own superintendent makes the same health care contribution as teachers.

"I appreciate that SB5 puts some guard rails on the collective bargaining process, but are your fellow board members ready to face the light of day that they're not going to be able blame anybody but themselves?" he said, returning to his earlier complaint about management responsibilities.

"For me, it's making things public," Kohls said. "That way, board members do the right thing."

She acknowledged to Young that board members typically aren't at the table when negotiations are hammered out, that being left to paid legal counsel.

Antonio asked her about the average teacher salary in Springboro. Kohl put it at \$53,400, but said she is uncomfortable comparing that to the local average household income for all families, who often have two working spouses.

"Is this bill the only way to get parity?" Antonio asked.

"I'm not against collective bargaining," Kohl responded. "I'm against the un-level playing field we have now."

Barry Tiffany, township administrator for Sugarcreek Township in Greene County, spoke on behalf of the Ohio Public Employer Labor Relations Association (OHPELRA) as a member of its Legislative Committee.

"I wish to make it clear that the OHPELRA does not seek to repeal or 'gut' the Ohio Public Employees Collective Bargaining Act," he said. "Our organization is committed to creating positive and effective labor-management relations in Ohio."

Still, Tiffany said his organization is primarily focused on protecting the "sovereign authority" of government to manage public funds. On that note, he agreed with Scheu that public pensions and health care should be left to local control.

He offered five "principles for collective bargaining reform" on behalf of OHPELRA:

- "The Ohio Public Employee Collective Bargaining Act should not grant public employees greater rights than employees enjoy in the private sector.
- "Management must be free to manage public agencies and decide matters of core public policy without having to bargain with un-elected union leaders to do so."
- "Decisions regarding funding and spending priorities must be made by elected officials and professional managers of state and local government, not un-elected arbitrators."

- "Government must have supervisors who do not have dual loyalty to a union."

- "Public agencies must be free to respond to issues that arise during the term of a labor contract without excessive restrictions."

Murray addressed Tiffany's basic legal premise around management rights. "You believe there is a constitutional right to sovereignty that supports the changes in this bill?" he asked, wondering if the witness could cite the article and section of the Ohio Constitution. Tiffany said he could not.

Murray also asked whether he had ever heard of any private sector employer -- the standard to which Tiffany was asking public employers to be held -- that had the power to throw a striking employee in jail. Tiffany said no, conceding generally that the bill is "not perfect."

Szollosi took on the argument that the arbitrator of terms of employment should be an elected official rather than hired counsel. He said negotiators' not being subject to political pressures in the next election cycle is actually a good thing.

Young reiterated shock at the magnitude of public employee benefits, and Antonio expressed shock at how much attorneys are being paid to arbitrate collective bargaining contracts.

"So the world is full of people making different salaries with different combinations of benefits. Some of them represent us legally and some of them save our lives," Antonio said, gesturing to public safety forces.

Next speaking in support of "several provisions" of SB5 were Tom Ash, director of governmental relations for the Buckeye Association of School Administrators (BASA); David Varda, executive director of the Ohio Association of School District Officials (OASBO); and Damon Asbury, director of legislative services for the Ohio School Boards Association (OSBA).

"First, we believe that all public employees should have the right to negotiate for their salaries and wages," Ash said on behalf of the group. "Second, we do not contest the salaries and wages which public employees have been able to gain through the collective bargaining process. We recognize that many of these employees make up the middle class and upper middle class of our economy. They purchase homes and pay their mortgages. They pay their taxes. ... Third, to the extent possible, local control should be honored."

On the other hand, said Ash, their organizations are questioning the sustainability of salary schedules based on automatic step pay and seniority. He added that they support the transparency provisions of the bill.

"The public which provides the financial support for our units of government cannot be completely excluded from the process," he said.

The group also voiced support for bargaining deadlines to prevent the start of the school year without a contract in place, and said generally that "management rights" have "seriously eroded" over the last 27 years, due to the convergence of Ohio law, court rulings and decisions by the State Employee Relations Board.

"We admit that we as management are partly to blame," he said, acknowledging the concerns of Coley and other Republicans. "When there are limited resources, management has over the past 27 years agreed to certain concessions. They may have related to the awarding of vacant positions without regard to qualifications but rather according to seniority. They have involved assignment without regard to experience. They may have involved the assignment of work within a negotiated work day. ... Whether we agree with those decisions today is moot."

Generally school boards and administrators value "labor peace," he said, which redounds to the benefit of school children.

Ash expanded his third point on local control.

"One concern that we do have is the bill's limiting compensation option for local governments by eliminating their ability to pay the employee's share of retirement," he said, noting, however, that pension pickups should be subject to the transparency provisions of the bill. "However, we feel that eliminating this option may not affect all employees equally and in some cases only lower the compensation of a few administrative employees."

During questioning, there was some initial ambiguity about the group's position on strikes. Asbury said he supports the right but later clarified that this is not the position of OABA as a whole. "I don't think collective bargaining without the right to strike is effective," he said.

Varda said some members of OASBO support the right to strike, and some do not. Consequently, the organization does not have a position on the question one way or the other.

Ash said unequivocally that BASA does not support the right to strike.

Rep. McKenney asked Asbury for his thoughts on merit pay, which the witness said had some validity but would need to be phased in slowly.

McKenney, who had been unusually quiet for the past two days, voiced concerns that were somewhat different than those voiced by his Republican colleagues. His wife being a school nurse, he noted several sisters-in-law who teach.

"Part of the attraction of teaching is benefits. Can I assure them that with a merit-based system teaching will still be a good profession for them?"

Proponent testimony was also taken from Vice President Terry Ryan of the Fordham Foundation, who previously testified on the bill before the Senate Insurance, Commerce and Labor Committee